

#638

BILL NO. Z-97-09-08

ZONING MAP ORDINANCE NO. Z- Spec.

AN ORDINANCE amending the City of  
Fort Wayne Zoning Map No. U-46.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is hereby designated a B-1-B District under the terms of Chapter 157 Title XV of the Code of the City of Fort Wayne, Indiana of 1974:

1.970 Acres and being a part of a 21.23 acre tract of land designated as Parcel B being a part of the Southeast  $\frac{1}{4}$  of Section 9, T-31-N, R-31-E, Allen County, Indiana, being more particularly described as follows: Commencing at the Southeast corner of said Section 9; thence South 86 degrees, 47 minutes, 39 seconds West (assumed bearing) a distance of 650.00 feet along the Southern line of Section 9; thence North 03 degrees, 12 minutes, 21 seconds West 25.00 feet to the Northern boundary of Rothman Road; thence North 70 degrees, 05 minutes, 42 seconds East a distance of 104.40 feet along the Northern right-of-way line of Rothman Road; thence North 82 degrees, 30 minutes, 18 seconds East a distance of 150.41 feet to the place of beginning at 5/8-inch rebar with cap labeled firm 0027; thence North 03 degrees, 11 minutes, 52 seconds West a distance of 282.11 feet to a 5/8-inch iron pin with a cap labeled firm 0027; thence North 86 degrees, 33 minutes, 01 seconds East a distance of 308.42 feet to a 5/8-inch rebar with a cap labeled firm 0027 at a point on the West right-of-way line of Maplecrest Road; thence South 03 degrees, 28 minutes, 05 seconds East a distance of 250.08 feet along the West right-of-way line of Maplecrest Road to a 5/8-inch rebar with a cap label firm 0027; thence South 46 degrees, 14 minutes, 30 seconds West a distance of 45.52 feet to a 5/8-inch rebar with a cap labeled firm 0027; thence South 86 degrees, 47 minutes, 39 seconds West a distance of 225.00 feet along the Northerly right-of-way line of Rothman Road to a 5/8-inch rebar with a cap labeled firm 0027; thence South 82 degrees 30 minutes, 18 seconds West a distance of 50.15 feet along the Northerly right-of-way line of Rothman Road to the place of beginning containing 1.970 ACRES MORE OR LESS. Subject to any easements and/or restrictions of record.

and the symbols of the City of Fort Wayne Zoning Map No. U-46, as established by Section 157.016 of Title XV of the Code of the City of Fort Wayne, Indiana are hereby changed accordingly.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

Leleee Carver  
Councilmember

APPROVED AS TO FORM AND LEGALITY:

J. Timothy McCauley  
J. TIMOTHY MCCAULAY, CITY ATTORNEY

Read the first time in full and on motion by Parne,  
and duly adopted, read the second time by title and referred to the Committee on Regulation, (and the City Plan Commission for recommendation)  
and Public Hearing to be held after due legal notice, at the Common Council Conference  
Room 128, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_,  
the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_  
o'clock \_\_\_\_\_ M., E.S.T.

DATED: 9-9-97

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Parne,  
and duly adopted, placed on its passage. PASSED LOST  
by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES		8		1
BENDER		✓		
CRAWFORD		✓		
EDMONDS		✓		
HALL		✓		
HAYHURST		✓		
HENRY		✓		
LUNSEY				✓
RAVINE		✓		
SCHMIDT		✓		

DATED: 10-14-97

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana,  
as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL)  
(ZONING) ORDINANCE RESOLUTION NO. \_\_\_\_\_  
on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

ATTEST:

SEAL

SANDRA E. KENNEDY, CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the  
\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_,  
at the hour of \_\_\_\_\_, o'clock \_\_\_\_\_, M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this \_\_\_\_\_ day  
of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_  
o'clock \_\_\_\_\_ M., E.S.T.

PAUL HELMKE, MAYOR





# Petition for a Zoning Map Amendment

Community & Economic Development / 1 Main Street Rm 830 / Fort Wayne, IN 46802 / (219) 427-1140

#638

Receipt 18561

I/We Amoco Oil Company do hereby petition to amend the Zoning Map of the City of Fort Wayne Indiana, by reclassifying from a/an B2B designation to a/an B1B designation, the property located at the common street address of: northwest corner of Maplecrest Road and Rothman Road 7403 MAPLECREST and further described as follows:

See Exhibit A attached hereto and incorporated herein by reference

(Please attach a legal description if more space is needed.)

The purpose of this proposed rezoning is to permit the use of the property for the following:

See Exhibit B attached hereto and incorporated herein by reference

Property owners Name(s): Joseph L. Zehr

Street Address: 10808 Lacabreah Lane

City: Fort Wayne State: IN Zip: 46825 Phone: 489-7095

Applicants Name (if different from above): Amoco Oil Company, Attn: Heidi J. Moore  
Property Development Manager

Street Address: 7462 East Fishers Station Drive, Box 303

City: Fishers State: IN Zip: 46038 Phone: 317-577-5795

I/We the undersigned, do hereby certify that I am/We are the owner(s) of more than fifty percent (50%) of the property described in this petition; that I/we agree to abide by all provisions of the Fort Wayne Zoning Ordinance as well as all procedures and policies of the Fort Wayne City Plan Commission as relating to the handling and disposition of this petition; and that the above information is true and accurate to the best of my/our knowledge.

By: Heidi J. Moore Heidi J. Moore, Property 7/10/97  
Signature Printed Name Development Manager Date

Joseph L. Zehr Joseph L. Zehr 8/14/97  
Signature Printed Name Date

Signature Printed Name Date

## Notes to the Applicant:

- If additional space is needed for either a legal description, or property owners names addresses and signatures, please attach same to this form.
- All requests for deferrals, continuances, withdrawals, or request that the ordinance be taken under advisement shall be filed in writing and be submitted to the City Plan Commission prior to the legal notice being submitted to the newspaper for publication.
- Filing of this petition grants the City of Fort Wayne permission to post "Official Notice" on the petitioned property. Failure to post, or to maintain posting may prevent the public hearing from being held.
- All checks should be made payable to: City of Fort Wayne.

Name and address of preparer, attorney or agent.

Jon A. Bomberger 219-460-1658  
Telephone Number

Baker & Daniels  
111 E. Wayne St., Suite 800  
Fort Wayne, IN 46802

Form Rez494

Receipt #: Date Filed:  
Map #: Reference #:



# LAND DESCRIPTION 1.970 ACRES

AND BEING A PART OF A 21.23 ACRE TRACT OF LAND DESIGNATED AS PARCEL B BEING A PART OF THE SOUTHEAST 1/4 OF SECTION 9, T-31-N, R-13-E, ALLEN COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 9; THENCE, SOUTH 86 DEGREES, 47 MINUTES, 39 SECONDS WEST (ASSUMED BEARING) A DISTANCE OF 650.00 FEET ALONG THE SOUTHERN LINE OF SECTION 9; THENCE NORTH 03 DEGREES, 12 MINUTES, 21 SECONDS WEST 25.00 FEET TO THE NORTHERN BOUNDARY OF ROTHMAN ROAD; THENCE, NORTH 70 DEGREES, 05 MINUTES, 42 SECONDS EAST A DISTANCE OF 104.40 FEET ALONG THE NORTHERN RIGHT-OF-WAY LINE OF ROTHMAN ROAD; THENCE, NORTH 82 DEGREES, 30 MINUTES, 18 SECONDS EAST A DISTANCE OF 150.41 FEET TO THE PLACE OF BEGINNING AT A 5/8-INCH REBAR WITH CAP LABELED FIRM 0027; THENCE, NORTH 03 DEGREES, 11 MINUTES, 52 SECONDS WEST A DISTANCE OF 282.11 FEET TO A 5/8-INCH IRON PIN WITH A CAP LABELED FIRM 0027; THENCE, NORTH 86 DEGREES, 33 MINUTES, 01 SECONDS EAST A DISTANCE OF 308.42 FEET TO A 5/8-INCH REBAR WITH A CAP LABELED FIRM 0027 AT A POINT ON THE WEST RIGHT-OF-WAY LINE OF MAPLECREST ROAD; THENCE, SOUTH 03 DEGREES, 28 MINUTES, 05 SECONDS EAST A DISTANCE OF 250.08 FEET ALONG THE WEST RIGHT-OF-WAY LINE OF MAPLECREST ROAD TO A 5/8-INCH REBAR WITH A CAP LABEL FIRM 0027; THENCE, SOUTH 46 DEGREES, 14 MINUTES, 40 S SECONDS WEST A DISTANCE OF 45.52 FEET TO A 5/8-INCH REBAR WITH A CAP LABELED FIRM 0027; THENCE, SOUTH 86 DEGREES, 47 MINUTES, 39 SECONDS WEST A DISTANCE OF 225.00 FEET ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF ROTHMAN ROAD TO A 5/8-INCH REBAR WITH A CAP LABELED FIRM 0027; THENCE, SOUTH 82 DEGREES 30 MINUTES, 18 SECONDS WEST A DISTANCE OF 50.15 FEET ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF ROTHMAN ROAD TO THE PLACE OF BEGINNING CONTAINING 1.970 ACRES MORE OR LESS. SUBJECT TO ANY EASEMENTS AND/OR RESTRICTIONS OF RECORD.

## **EXHIBIT B**

### **PURPOSE OF PROPOSED REZONING**

Applicant seeks a downzoning of a 1.97-acre parcel of property located at the northwest corner of Maplecrest Road and Rothman Road from the B-2B (community shopping center) zoning district to the B1B (limited business) zoning district to accommodate the development upon the property of a dual-branded Amoco Oil Company gas station and convenience store with a McDonald's Corporation restaurant in accordance with the conceptual site plan attached hereto and incorporated herein by reference as Exhibit C. Applicant seeks a downzoning upon the advice of City of Fort Wayne Plan Commission staff to allow for current development of the subject property without concurrent development of the remainder of the surrounding B-2B (community shopping center) zoning district. The remainder of the surrounding shopping center is not scheduled for development in the immediate future.



## RESOLUTION OF ZONING MAP AMENDMENT RECOMMENDATION

**WHEREAS**, the Common Council of the City of Fort Wayne, Indiana, on September 9, 1997 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated Bill No. Z-97-09-08; and,

**WHEREAS**, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

**WHEREAS**, the City Plan Commission conducted a public hearing on such proposed ordinance on September 15, 1997.

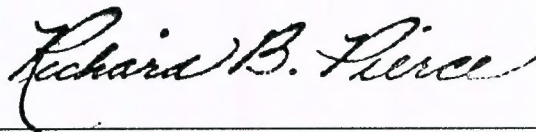
**NOW THEREFORE, BE IT RESOLVED** that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a **DO NOT PASS** recommendation based on the Commission's following "Findings of Fact".

- 1) Approval may set an unfavorable precedent for the development of the remainder of this center, and other similar centers, which could lead to future development inconsistent with the principles of responsible development and growth.
- 2) Approval would create a situation where unequal development standards would be applied to the overall parcel, resulting in an advantage to this parcel. The Commission advocates equitable standards throughout the community.
- 3) The Site Committee is very concerned with maintaining consistent development plan control over the acreage, and the potential impacts a lack of control could have on property in the vicinity of this site.

**BE IT FURTHER RESOLVED** that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held September 23, 1997.

Certified and signed this  
23rd day of September 1997.



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Richard Pierce  
Secretary

# FACT SHEET

Z-97-09-08

BILL NUMBER

## Division of Community Development & Planning

**BRIEF TITLE**

Zoning Map Amendment

**APPROVAL DEADLINE****REASON**

From B2B to B1B

**DETAILS****Specific Location and/or Address**Northwest corner of Maplecrest &  
Rothman Roads.**Reason for Project**

Development of McDonald's / AMOCO facility.

**Discussion (Including relationship to other Council actions)**  
15 September 1997 - Public Hearing

(See Attached Minutes of Meeting)

22 September 1997 - Business MeetingMotion was made and seconded to return  
the ordinance to the Common Council  
with a DO NOT PASS recommendation.Of the nine (9) members present eight (8)  
voted in favor of the motion, the Chair  
did not vote.

Motion Carried

Members Present: Linda Buskirk, Jim  
Dearing, Ernest Evans, DeDe Hall, James  
Hoch, Charles McNagny, Richard Pierce,  
Thomas Quirk, Dave Ross**POSITIONS****RECOMMENDATIONS****Sponsor**

City Plan Commission

**Area Affected**

City Wide

Other Areas

**Applicants/  
Proponents**Applicant(s)  
AMOCO Oil Co & Joseph Zehr

City Department

Other

**Opponents**

Groups or Individuals

Basis of Opposition

**Staff  
Recommendation**☐ For ☐ AgainstReason Against  
No recommendation given.**Board or  
Commission  
Recommendation**

By

☐ For ☒ Against  
☐ No Action Taken☐ For with revisions to conditions  
(See Details column for conditions)**CITY COUNCIL  
ACTIONS**  
(For Council  
use only)☐ Pass ☐ Other  
☐ Pass (as  
amended) ☐ Hold  
☐ Council Sub. ☐ Do not pass



Policy or Program Change	<input type="checkbox"/> No <input type="checkbox"/> Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start

Date 14 August 1997

Projected Completion or Occupancy

Date 23 September 1997

Fact Sheet Prepared by  
Patricia Biancaniello

Date 23 September 1997

Reviewed by

Date 23 September 1997

Reference or Case Number



- a. Bill No. Z-97-09-08 - Change of Zone #638  
From B2B to B-1-B  
Northwest corner of Maplecrest and Rothman Roads

Jon Bomberger, attorney for the petitioners appeared before the Commission. Mr. Bomberger stated that he was there requesting a downzoning of this parcel from B2B to B1B. He presented a conceptual plan for the Commission's review. He stated that the current zoning designation would allow for the use that they want to develop on this parcel. A gas station, convenience store and restaurant. He stated that they are asking for the downzoning because of what he referred to as a "technical anomaly" in the current Zoning Ordinance. He stated that the existing B2B district requires the submission and approval of a primary and secondary development plan for the entire shopping center, before construction can begin. Also, before you can get a portion of the shopping center you must first obtain approval of a primary development plan for the entire center. He stated that this entire property has been zoned B2B since 1978. He stated that there is no current approved primary development plan for the shopping center as a whole. The owner of the land has not progressed to the point where a primary development plan could be presented and approved. He stated that they wish to develop a portion of this site now. He stated that they need a way to develop this site now, without having to develop a primary plan for the surrounding shopping center. He stated that they have worked with the Plan Commission staff and they came up with the plan of downzoning the property. The small corner piece (1.97 acres) of the parcel. He stated that there are a lot of reasons why this rezoning makes sense. He stated that the rezoning does allow for the utilization of the parcel now, as opposed to a later date, or as opposed to using in it the B2B zoning designation. It does provide for them some advantages with regard to the setbacks and the signage regulations, which apply to the B1B zoning classification. He stated that there is no real change in the commercial nature and utilization of this property by rezoning. He stated that the B1B will still require the commercial routing of the structure, prior to pulling building permits. He stated that in the staff comments there was some discussion regarding the landscaping and signage, if the property is rezoned. He stated that with regard to both issues the criticism of their plan was that the B1B requirements with regard to both of those issues were less restrictive than those of the B2B district. He stated that in that regard they are willing to go forward on the basis of an agreement, prior to any construction, to submit an adequate landscaping plan and an adequate signage plan for the staff to review and approve. He presented an artist's rendering of the type of facility that they are planning. He stated that this type of facility is a relatively new development. He stated that the other issue that was brought up in the comments received from staff is the issue of the type of precedent that this may set in this area. He stated that he felt that this property is the very corner parcel of the entire parcel of the shopping center. The type of use that they are talking about is a very distinguishable use from other parcels that might exist in the shopping center. He stated that this use already has a clientele on Rothman Road and Maplecrest Road. He stated that their services are designed to satisfy the needs of the traffic that is already there. He stated that they are a drive by and drive in business. He stated that they are not at all relying upon or dependent upon the eventual development of the shopping center. He stated that their use of the parcel is relatively independent of the shopping center that may be developed on the rest of this parcel. He stated that their sole dependence on the shopping center is the access road for the shopping center that has already been approved. He stated that they have access points that would eventually be located on the entrance roads to the eventual shopping center. He stated that their use does not "play" upon shopping center traffic. He stated that it is a use that could live on this parcel independently for many years without the need for the additional traffic that would be generated from the shopping center. He stated that the other thing to keep in mind is that the remainder of the property is still B2B, and is subject to all the requirements under the development plan for a planned shopping center. He stated that a rezoning requires that we look at five factors that are set forth in the state statutes governing zoning ordinances. In that they must look at the Comprehensive Plan, the current conditions in the area, uses and structures and their status. They must look at the highest and best use of the property, must look at the effect on property values, and how this rezoning will work in principles of responsible growth. He stated that this proposal meets the requirements. He stated that this proposal is clearly consistent with the Comprehensive Plan. The property is already zoned commercially and so the effect on property values is going to be minimal. The property is in an area where the current conditions clearly indicate that commercial development is appropriate. He stated that this property is clearly no longer an agricultural piece of property, no longer residential, it is in its highest and best use as commercial. In light of I-469 and in light of the widening and extension of Maplecrest Road, it is a



prime piece of commercial property. He stated that there were several other issues that are raised regarding this request and they have to do with subdivision control and with the issue of the Red Zone, with regard to sewer taps. He stated that they felt that they could address those issues in terms of an "administrative approval" of a sell off of this parcel. Obviously, the landowner will be prohibited from any further selling off of parcels for a 12 month period. With regard to the Red Zone issue, he stated that they are a very low impact facility in terms of sanitary sewer requirements. He stated that they have done some preliminary investigations with regard to obtaining the appropriate permits from the Board of Public Works and they feel confident that if they obtain this zoning they will be able to proceed. He stated that in conclusion he hoped that the Commission would recognize the uniqueness of this request and help them to deal with the "anomaly" that they faced when they began the process and recommend approval of the downzoning.

Ernest Evans questioned where the proposed access would be for this project.

Mr. Bomberger stated that the entrance road would be from Rothman Road to the shopping center. They would then have access from the internal shopping center road. There would also be a right in only from Rothman Road.

Dave Ross questioned that if the property is rezoned, would it no longer be a part of the shopping center, but would a separate parcel.

Mr. Bomberger stated that was correct.

Ernest Evans stated that he would assume that there would be some kind of agreement with the shopping center so that they would have access to the internal access road through the shopping center.

Mr. Bomberger stated that was correct.

DeDe Hall wanted to know if the developer would be willing to put in writing that they would fall under the standards that are being set out in the Zoning Ordinance Amendment that they are working on and that is close to being approved.

Mr. Bomberger stated that he would need clarification, in that there are some aspects of the ordinance that would not be reasonable to impose on this development. One being the screening between them and the shopping center. He stated that they will agree to submit a landscape plan and a signage plan. He stated that he felt they would more than likely exceed the Commission's expectations in those areas. He stated, however, that he could not, without sitting down with the new amendment to the Zoning Ordinance, agree to something that he was not familiar with at that time.

Pat Fahey, Senior Planner with C&ED questioned if there was a general time frame for the development of this project.

Mr. Bomberger stated that it is getting late into the construction season this year, so they are looking at early 1998.

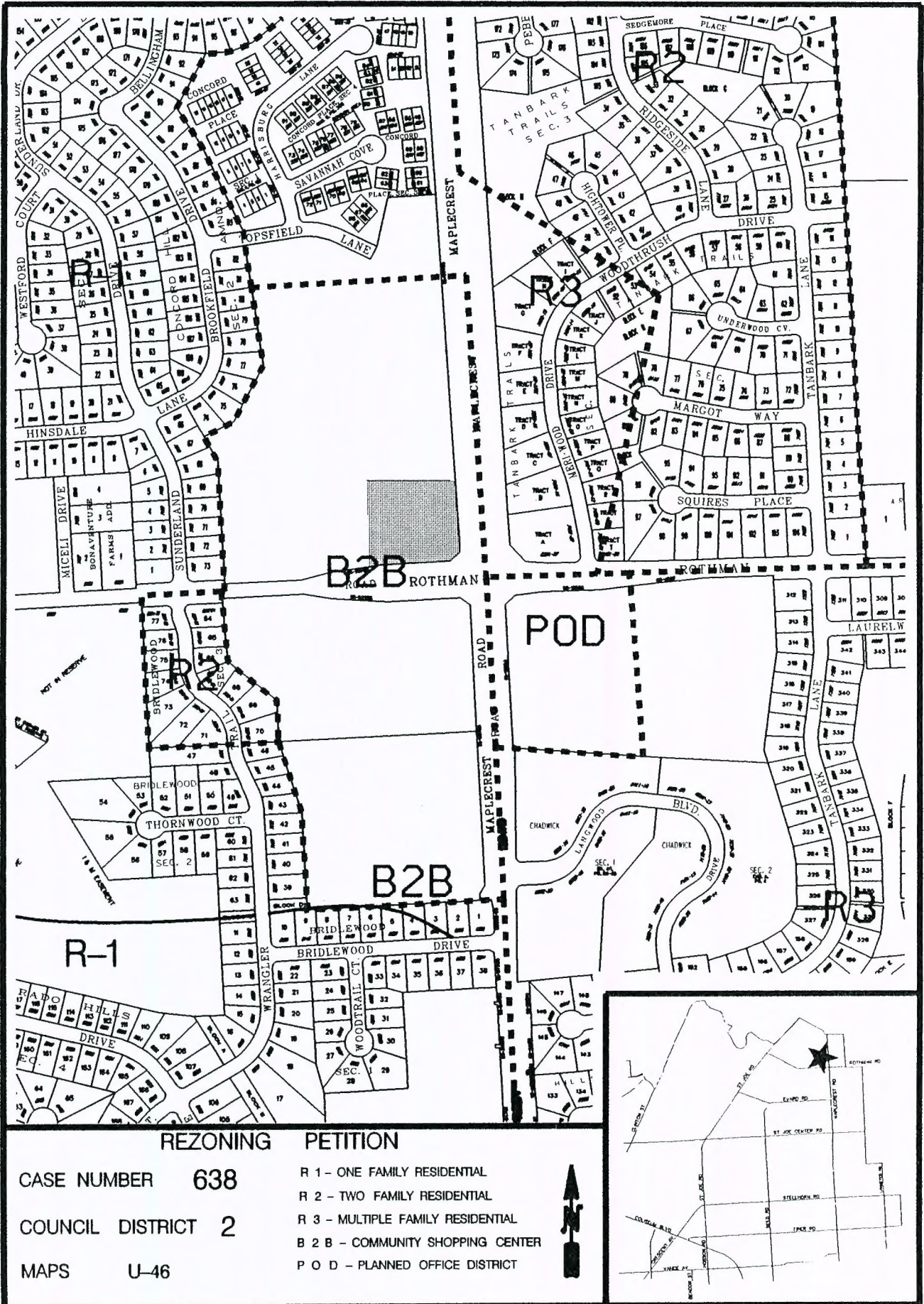
Mr. Fahey asked what the overall acreage was of the entire shopping center parcel.

Mr. Bomberger stated that the entire center is approximately 19 acres, they will be purchasing and using 2 acres.

There was no one else present who spoke in favor of or in opposition to the proposed rezoning.



# REZONING



#638

## DIGEST SHEET

TITLE OF ORDINANCE Zoning Map AmendmentDEPARTMENT REQUESTING ORDINANCE Land Use Management - C&EDSYNOPSIS OF ORDINANCE 7403 Maplecrest Road (Northwest corner  
of Maplecrest and Rothman Roads)2-97-09-08EFFECT OF PASSAGE Property is currently zoned B-2-B -Neighborhood Shopping Center District. Property will be  
zoned - B-1-B - Limited Business District.EFFECT OF NON-PASSAGE Property will remain B-2-B - Neighborhood  
Shopping Center District.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) \_\_\_\_\_

(ASSIGN TO COMMITTEE) \_\_\_\_\_



BILL NO. Z-97-09-08

## REPORT OF THE COMMITTEE ON REGULATIONS

REBECCA J. RAVINE - THOMAS E. HAYHURST - CO-CHAIR  
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS  
REFERRED AN (ORDINANCE) (XXXXXXXXXX) amending the City of Fort  
Wayne Zoning Map No. U-46

HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION  
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID  
(ORDINANCE) (RESOLUTION)

DO PASS

~~DO NOT PASS~~

ABSTAIN

NO REC

Celeste Cassin  
 John C. King  
 Arthur A. Bond  
 Thomas & Humphreys  
 Andrew Hall

DATED: 10-14-97

Sandra E. Kennedy  
City Clerk